

## **Strategy – Safe Speed Act; Establishing Uniform Sentencing for Speeding Offenses**

### **General Description**

Speeding is the primary cause of more than 35% of all vehicle crashes and is the primary factor in nearly 50% of all fatal crashes on North Carolina's highways, resulting in approximately 700 people dying in speed related crashes each year. One of the primary concerns with speed related citations is that relatively few are adjudicated as charged when the offender goes to court. Presently, with the current case loads in the court systems, both prosecutors and judges are reluctant and some even very adamant about **NOT** trying these types of citations. As a result, over the past number of years, the public has been given the perception that "speeding" is not a traffic violation that needs to be taken very seriously and that the consequences of speeding (both in terms of safety and punishment) are minimal on both a personal and broader level.

Unfortunately, motorists are not generally worried about getting caught for speeding, because they have a high level of confidence that if they are cited for such a violation, the consequences and cost of being caught are minimal to non-existent. If they go to court, the charges are greatly reduced or dropped so that there is essentially no consequence to the individual. With speed becoming more of a primary factor in so many of the crashes and fatalities that occur within the state each year, the time has come for the State to take a more aggressive stand on this issue. We must also take the steps necessary to change the present public perception about this issue in order to maximize the most benefit. An excellent method by which to accomplish this is to establish set "Levels" of punishment/consequences for speeding and base these upon how far the motorists was exceeding the posted speed.

This system or "The Safe Speed Act", would 1) In essence make the process of adjudicating speed related citations more of an administrative one, thus having minimal impact on the courts, 2) Would establish uniform sentencing of speeding offenses with set and non-negotiable penalties 3) Would ensure that the severity of the penalties increased with severity and frequency of the violation thus providing the necessary sanctions to discourage this behavior and 4) Would eliminate plea bargaining by judicial officials and ensure uniform sentencing by judges. Listed below are the five levels of Offenses.

### **Level 5 Speeding Offence: 0-10mph over the posted speed limit**

- \$25.00 penalty, plus court costs OR \$25.00 penalty with an administrative fee (which is less than court costs) if paid before set date.
- No less than 1 DMV point.
- Third and subsequent offences in a six-month period become a **Level 4** offence with a mandatory court appearance.
- Level 5 offense may be pleaded for Prayer for Judgement to remove DMV points (Insurance Points). Successful pleas will require penalty and court costs and mandatory attendance at an eight hour defensive driving course plus cost of class. Judges should review driving record before allowing a plea.

#### **Level 4 Speeding Offence: 11-15 mph over the posted speed limit**

- \$50.00 penalty, plus court costs OR \$50.00 penalty with an administrative fee (which is less than court costs) if paid before set date.
- No less than 2 DMV points.
- Third and subsequent offences in a six-month period become a **Level 3** offence with a mandatory court appearance.
- Level 4 offense may be pleaded down to a lesser charge or Prayer for Judgement to remove DMV points (Insurance Points). Successful pleas will require penalty and court costs and mandatory attendance at an eight hour defensive driving course plus cost of class. Judges should review driving record before allowing a plea.

#### **Level 3 Speeding Offence: 16-20 mph over the posted speed limit**

- Mandatory Court Appearance
- No less than \$75.00 penalty, plus court costs
- No Less than 3 DMV points
- Mandatory attendance to an eight hour defensive driving course plus cost of class.
- Third and subsequent offences in a six-month period become a **Level 2** offence
- If offence is in excess of 55mph and more than 15mph over the posted limit, mandatory revocation of driving privileges for no less than 60 days.

#### **Level 2 Speeding Offence: 21-25 mph over the posted speed limit.**

- Mandatory Court Appearance
- No less than \$100.00 penalty, plus cost of court
- No less than 4 DMV points
- Mandatory attendance to an eight hour defensive driving course plus cost of class
- Third and subsequent offences in a six-month period become a **Level 1** offence
- Mandatory revocation of driving privileges for no less than 90 days

#### **Level 1 Speeding Offence: 26mph or greater over the posted speed limit.**

- Mandatory Court Appearance
- No less than \$200.00 penalty, plus cost of court
- No less than 5 DMV points
- Mandatory attendance to an eight hour defensive driving course plus cost of class
- Mandatory revocation of driving privileges for no less than 180 days

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#### ***Technical Attributes***

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Target	The target of this strategy is all drivers on all roadways in North Carolina and would include both passenger and commercial motor vehicles.
Expected Effectiveness	<ul style="list-style-type: none"><li>• A reduction in mean vehicle speeds.</li><li>• A reduction in speed related crashes and fatalities.</li><li>• A change in public perception as to the consequences and penalties associated with speeding in North Carolina.</li><li>• Elimination of reduced or dismissed speed related charges in the courts</li><li>• Eventually, fewer people cited with speeding convictions coming to court, thus freeing time on court dockets (they know the charges are not going to be reduced or dropped).</li></ul>

Keys to Success	<ul style="list-style-type: none"> <li>▪ Education of legislators as to the severity of the problem.</li> <li>▪ Minimizing or even reducing the impact of adjudicating speed related citations on the courts and judges.</li> <li>▪ Legislative support.</li> <li>▪ Support of the courts and judges.</li> <li>▪ Strong legislation with no “loop holes” for attorneys to exploit.</li> <li>▪ Continued and even increased speed related enforcement by state and local agencies.</li> <li>▪ Public education/awareness campaign.</li> </ul>
Potential Difficulties Appropriate Measures and Data	<ul style="list-style-type: none"> <li>• Getting appropriate legislation approved.</li> <li>• Spot speed studies across the state.</li> <li>• Analyses of speed related crashes and fatalities.</li> <li>• Analyses of adjudication rates for speed related citations “as charged”.</li> <li>• Public opinion surveys on the consequences and penalties associated with speeding.</li> <li>• Number of speeding citations being issued by law enforcement (before vs. after).</li> </ul>
Associated Needs	<ul style="list-style-type: none"> <li>• Legislative “buy in” and support.</li> <li>• Cooperation of state and local law enforcement agencies.</li> <li>• Cooperation of the judicial system in processing these types of violations.</li> <li>• Possibly paid and earned media for the public education component.</li> </ul>
Organizational, Institutional, and Policy Issues	<ul style="list-style-type: none"> <li>• A change in the way these types of citations/violations are processed within the courts will be needed.</li> </ul>
Issues Affecting Implementation Time Costs	<ul style="list-style-type: none"> <li>• Approval of the appropriate legislation.</li> </ul> <p>Cost would be minimal.</p>
Training	There is little to no training that will be required for this program.
Legislative Needs	Appropriate legislation establishing the above outlined Levels for speeding in North Carolina.

**Things to Consider** (please provide response, thoughts, comments below)

1. Do we need to work with the Insurance Commission to establish set insurance points for the various levels?
2. Identify threats
3. Identify why this hasn't been done in the past

**General comments and research – Charlie Jones Charlotte DOT**

*Other States*

Based on data in the Summary Table of State Speed laws compiled by the National Highway Traffic Safety Administration (NHTSA) it appears there is only one state (MA) with mandatory minimums for speed related infractions. All other States are similar to NC in that the laws are written with maximum penalties, both in dollar amounts and revocations, which a judge may impose. This data can be found at

<http://www.nhtsa.dot.gov/people/injury/enforce/speedlaws501/introduction.htm>, the table was compiled during 2001, so some of the states may have revised their laws since that time.

*Potential Challenges from judges and attorneys*

I was unable to find any clear evidence that other states have tried to enact similar legislation. However, while reviewing mandatory minimum sentencing and sentencing guidelines I found a several common arguments that are used to oppose these measures.

1. Sentencing guidelines limit the authority of judges.
2. Sentencing guidelines and minimums blur the line between the separation of the legislative and judicial branches of government.
3. Judges have the luxury of viewing each case and understanding the circumstances involved. The legislature and those who develop the guidelines do not have this luxury. Therefore, such sentencing guidelines limit a judge's discretion in reducing sentences for mitigating or unusual circumstances.

Because of some of the arguments above and the rigid nature of the first draft of penalties, I added the plea option to Level 5 and 4 offenses. I feel that adding a plea option will lessen some of the opposition we might face from the judiciary. With the plea options, those folks that have a lapse in judgment one time will still be able to escape with no points, it will however hit them in the pocketbook and with their time to plea out. The serious nature of level 1-3 merit a stricter sentence and a violation of the speed limit by more than 16 mph could be considered a willful disregard of the law.

*Other thoughts/questions to add to the list:*

1. Will we face difficulties with the various types of enforcement equipment in use statewide? For example, are tickets issued with a pace car more likely to be thrown out than those issued with conventional radar? What other types of equipment are used and what are strategies currently used by lawyers to cast doubt on the validity of the citation?

2. Does our current system favor the educated and/or wealthy? It seems that there is an overabundance of lawyers that can be hired to dismiss tickets. What alternatives do the poor have? This might be a valid argument if it is needed to sell the legislation.
3. I lowered the point values in the punishment levels to more closely mirror point values currently used for other traffic related offenses. However, I also included the “no less than” phrase to give judges some discretion to give a higher point based on driver history. Currently, the highest infraction for passenger vehicles is passing a stopped school bus which carries a 5 point punishment.
4. My theory on why this hasn’t been done in the past. The focus has been on other traffic safety issues, seatbelts and DUI. It has taken at least 14 years for all 50 states to institute the .08 BAC level for DUI, and this standard came with a fairly sizeable string attached, federal funding for transportation projects. Perhaps speed related collisions have not reached that breaking point for federal action to occur. It wasn’t too long ago that the feds repealed the national speed limit, and States toyed with higher interstate speed limits or no limits at all.
5. Where will the revenue go? (I suggest driver’s ed programs and/or defensive driving programs) This could potentially be a hot button issue. Folks will see any increase in fines as a money making scheme.
6. We should probably work to define some exceptional and rare circumstances that could currently be used to dismiss a ticket or have a ticket dismissed in the future. This might be more of an enforcement issue. I would hope that an officer wouldn’t give a speeding ticket to a woman in labor, etc.